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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,689	01/02/2001	Tatsu Inoue	Q62565	8183

7590 08/03/2004  
SUGHRUE, MION, ZINN, MACPEAK & SEAS  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037

EXAMINER

SHELEHEDA, JAMES R

ART UNIT PAPER NUMBER

2614

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

23

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/750,689	INOUE, TATSU	
	<b>Examiner</b>	<b>Art Unit</b>	
	James Sheleheda	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (Ellis) (6,275,268) in view of Deiss (5,802,063).

As to claims 1 and 7, Ellis discloses a method and apparatus for displaying a program guide (Fig. 1; column 8, lines 23-31) comprising:

a program information receiving device (receiver, 12) for receiving information about programs (program guide data; column 8, lines 52-58);

a program selection accepting device (remote controller, 31) for accepting a selection of a desirable program from a plurality of the programs (column 10, lines 54-59 and column 14, lines 31-41);

a program information reading device (micro-controller, 16) for reading the information about the selected program (retrieving program information from memory; column 10, lines 5-14 and column 19, lines 66-67 and column 20, lines 1-3); and

a determining device (micro-controller, 16 controlling the EPG software; column 10, lines 5-14) for determining whether the selected program is allowed to be viewed (determining if the user is subscribed to the program service; column 19, lines 66-67 and column 20, lines 1-3); and

a displaying device (TV receiver, 27) for displaying information to specify the selected program (program title, see Fig. 9; column 19, lines 66-67 and column 20, lines 1-3), and information on the basis of the result of determining by the determining device (user subscription status, see Fig. 9; column 19, lines 66-67 and column 20, lines 1-3) on an identical screen (on the same display; see Fig. 9), at least if the result of determining is that the selected program is not allowed to be viewed (if the user is not subscribed to the program service; column 19, lines 66-67 and column 20, lines 1-3).

While Ellis discloses determining whether the selected program is allowed to be viewed (determining if the user is subscribed to the program service; column 19, lines 66-67 and column 20, lines 1-3), he fails to specifically disclose a **storing device** for

storing contract conditions of a plurality of programs, a **contract conditions reading device** for reading the contract conditions corresponding to a selected program whose selection accepted and **determining** whether the selected program is allowed to be viewed by comparison between the read information and the read contract conditions.

In an analogous art, Deiss discloses a digital television receiver (Fig. 3; column 3, lines 7-9) wherein programming a subscriber is allowed to view is determined (column 4, lines 54-59) based upon a comparison between received EMM data stored in a smart card (column 4, lines 54-59 and lines 65-67) which identify the programs the subscriber is entitled to view (contract conditions; column 4, lines 54-59 and lines 65-67) and ECM packets received from an EPG (column 4, lines 42-49) identifying the security information for a particular program (viewing conditions; column 4, lines 49-54). This provides the typical benefit of determining programming a subscriber or group of subscribers is entitled to receive (column 4, lines 54-59).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Ellis' system to include a **storing device** for storing contract conditions of a plurality of programs, a **contract conditions reading device** for reading the contract conditions corresponding to a selected program whose selection accepted and **determining** whether the selected program is allowed to be viewed by comparison between the read information and the read contract conditions, as taught by Deiss, for the typical benefit of providing a way to correctly identify which programming a subscriber is entitled to receive and view.

As to claims 2 and 8, Ellis and Deiss disclose wherein the displaying device (TV receiver, 27) also displays information on the basis of the result of determining by the determining device on the identical screen (program information and the program; see Ellis at Fig. 12), if the result of determining is that the selected program is allowed to be viewed (wherein the user sees the normal program; see Ellis at column 14, lines 7-21).

As to claims 3 and 9, Ellis and Deiss disclose wherein the information about programs read by the program information receiving device is provided by EPG data (on screen program schedule information; see Ellis at column 10, lines 5-14 and column 19, lines 66-67 and column 20, lines 1-3).

4. Claims 4-6 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis and Deiss as applied to claims 1 and 7 above, and further in view of Coleman et al.

As to claims 4 and 10, while Ellis and Deiss disclose wherein the information about programs read by the program information device includes at least

a name of the programs (Shaker Run; see Ellis at Fig. 9), start time of the programs (4:00; see Ellis at Fig. 9), finish time of the programs (5:30; see Ellis at Fig. 9), broadcasting channel of the programs (6, HBO; see Ellis at Fig. 9), broadcasting dates of the programs (wherein the guide data includes current and future airing dates of the show; column 14, lines 64-67 and column 15, lines 1-2), and viewing conditions of the programs (see Deiss at column 4, lines 42-49);

the determining device determines whether the selected program is allowed to be viewed (see Deiss at column 4, lines 42-46) by comparison between the read viewing conditions (conditions for the particular program; see Deiss at column 4, lines 49-54) and the read contract conditions (user entitled programming; see Deiss at column 4, lines 54-59 and lines 65-67); and

the displaying device displays at least the name of the selected program (Shaker Run; see Ellis at Fig. 9), and information on the basis of the result of determining by the determining device on the identical screen (subscription status for that programming channel; see Ellis at Fig. 9), at least if the result of determining is that the selected program is not allowed to be viewed (see Ellis at column 19, lines 66-67 and column 20, lines 1-3),

they fail to specifically disclose wherein the information about programs includes information about the contents of the programs and displaying the contents of the selected program on the identical screen.

In an analogous art, Coleman discloses an receiving apparatus (Fig. 2; column 5, lines 32-33) which will receive IPG data concerning the content of the program (column 14, lines 8-22) and display the program content information on the screen at the same time as the regular viewing window and the program title information (Fig. 8; column 21, lines 19-31) for the typical benefit of providing detailed program information to the user while maintaining viewing continuity with the primary display (column 21, lines 28-31).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Ellis and Deiss' system to include the wherein the



information about programs includes information about the contents of the programs and displaying the contents of the selected program on the identical screen, as taught by Coleman, for the typical benefit of providing detailed information for the selected program information to the user while maintaining viewing continuity with the primary display.

As to claims 5 and 11, Ellis, Deiss and Coleman disclose wherein the displaying device (TV receiver, 27) also displays information on the basis of the result of determining by the determining device on the identical screen (program information and the program; see Ellis at Fig. 12), if the result of determining is that the selected program is allowed to be viewed (wherein the user sees the normal program; see Ellis at column 14, lines 7-21).

As to claims 6 and 12, Ellis and Deiss disclose wherein the information about programs read by the program information receiving device is provided by EPG data (on screen program schedule information; see Ellis at column 10, lines 5-14 and column 19, lines 66-67 and column 20, lines 1-3).

### ***Conclusion***

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually

Art Unit: 2614

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### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (703) 305-8722. The examiner can normally be reached on 9:00-5:30.


Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703) 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda  
Patent Examiner  
Art Unit 2614

JS



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600